

October 25, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0005**
Proposed Ordinance No. **2005-0390**

JESSIE GLEN SUBDIVISION
Preliminary Plat Application

Location: Between 116th and 120th Avenues Southeast, north of Southeast 192nd Street

Applicant: JG Real Estate Group NW, LLC,
represented by **Eric LaBrie**
ESM Consulting Engineers, LLC
33915 1st Way South, Suite 200
Federal Way, Washington 98003
Telephone: (253) 838-6113
Facsimile: (253) 838-7104

King County: Department of Development and Environmental Services,
represented by **Trishah Bull**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6758
Facsimile: (206) 296-6613

SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:

Approve with conditions

Department's Final Recommendation:

Approve with revised conditions

Examiner's Decision:

Approve with revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened:

October 20, 2005

Hearing Closed:

October 20, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Joe Singh
JG Real Estate Group NW, LLC
18124 Riviera Place SW
Seattle, WA 98166
206-799-3051

Engineer: ESM Consulting Engineers, LLC
33915 1st Way South, Suite #200
Federal Way, WA 98003

STR: 33-23-05

Location: The site is located between 116th and 120th Avenues Southeast, north of Southeast 192nd Street

Zoning: R-6-SO
Acreage: 7.7 acres
Number of Lots: 49
Density: 6.36 units per acre
Lot Size: Ranges from approximately 3,780 to 6,600 square feet
Proposed Use: Single-family detached dwellings
Sewage Disposal: Soos Creek Water and Sewer District
Water Supply: Soos Creek Water and Sewer District
Fire District: King County District #40
School District: Renton School District #403
Complete Application Date: April 11, 2005

2. Except as modified herein, the facts set forth in the DDES reports (including the incorporation of the traffic narrative received as exh. 16, inadvertently omitted from the staff report) to the Examiner and the DDES and King County Department of Transportation testimony are found to be correct and are incorporated herein by reference.
3. The subject property is an odd-shaped aggregate of tracts (essentially two rectangles connected by a narrow rectangular strip) with frontage on the east side of 116th Avenue Southeast and on the west side of 120th Avenue Southeast, north of Southeast 192nd Street in the Benson Hill area between Renton and Auburn. The site terrain consists of a gentle slope generally from west to east. Vegetation consists of a combination of dense mixed-species woods, shrub and grassy areas, and landscaped yards and lawn area gracing two residences (one on each major rectangle) and their associated outbuildings. No sensitive/critical areas lie within or in close proximity to the site. The surrounding area consists of generally larger lot suburban residential parcels.

4. The Applicant proposes subdivision of the property into 49¹ lots for single-family residential development. Each of the major rectangles of the aggregate property would be served by its own system of public roads providing access to each of the lots (Tract A, originally proposed to be a private stub road, may instead be dedicated as a public road; county staff confirmed that such conversion is feasible as the subdivision is currently proposed). A recreation tract with amenities would be placed at the easterly terminus of the cul-de-sac in the east end of the northwesterly half of the development, connected to the southeasterly portion by a continuation of the recreation tract in the connecting strip, which would itself be developed with a pedestrian trail and amenities. A drainage detention tract would be placed in the easterly portion of the southeast tract on the 120th Avenue Southeast frontage.
5. The single member of the public participating in the hearing (Babu Parayil, a nearby property owner) requested information regarding ability to hook up to the sanitary sewer service to be extended into the site by the Soos Creek Water and Sewer District. As noted in the hearing, sewer connection policies are under the authority of the District, not the County.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-6-SO zone.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on July 14, 2005, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Jessie Glen* subdivision, as revised and received July 14, 2005, is approved subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.

¹ Forty six lots is normally the maximum permitted on the subject property under the assigned R-6-SO zoning, but the increase of three lots is permitted under the Transfer of Development Rights (TDR) allowances conferred by KCC 21A.12.030 (A) and (B) (1) in concert with Chapter 21A.37 KCC (the TDR program provisions).

3. The plat shall comply with the base density (and minimum density) requirements of the R-6-SO zone classification. All lots shall meet the minimum dimensional requirements of the R-6-SO zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
7. The drainage detention facility shall be designed to meet at a minimum the Conservation Flow Control and Basic Water Quality provisions in the 2005 King County Surface Water Design Manual (KCSWDM).
8. A drainage adjustment (L05V0052) is approved to combine the onsite subbasins into one post-developed detention facility. All conditions of approval for this adjustment shall be incorporated into the engineering plans.
9. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. Road A from 120th Avenue SE to Lot 37 shall be improved to the urban one-half street standard. The remaining portion of Road A from Lot 37 to the south plat boundary shall be improved to the urban subaccess street standard.

Road A shall include an adequate pavement radius to 120th Avenue SE on the north side; unless otherwise approved by DDES. Property owner permission and an appropriate easement are required for this improvement, to be submitted with the engineering plans. The existing private driveway at this location is to be abandoned, with new access to Parcel 6198400300 on the new Road A. Property owner permission is required to relocate the driveway. Note that DDES has received a letter of intent to provide permission.

This subdivision shall comply with Section 1.03(D) of the KCRS. This Section requires a continuous public access prior to recording. If the proposed subdivision to the south (L04S0003) is not completed and approved by King County prior to this subdivision recording, a temporary turnaround shall be provided at or near the south end of Road A, subject to DDES approval as to location.

- b. Roads B, C, and D shall be improved to the urban subaccess street standard.
- c. The west R/W line for Road A shall be extended north across Lot 36 and Tract C to the north line of Tract C.
- d. The east R/W line for Road C shall be extended north across Lot 7 and 8 to the north line of Lot 7.
- e. FRONTAGE: The frontage of the site along 116th Avenue SE shall be improved to the urban minor arterial standard (33 ft. half-width pavement section). The design shall require compliance with Section 4.01(f) of the KCRS; asphalt overlay when widening.
- f. Twelve feet of additional R/W is required to be dedicated along the 116th Ave SE frontage as required for a 42 ft total half width R/W(east side).
- g. FRONTAGE: The frontage along 120th Ave SE (west side) shall be improved at a minimum to the urban neighborhood collector standard. The design shall require compliance with Section 4.01(f) of the KCRS; asphalt overlay when widening.
- h. Tract A shall be a minimum 26 feet wide and improved as a private access tract per Section 2.09 of the KCRS. This tract shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and on the final plat map. As an alternative to private access tract status, Tract A may be improved and dedicated as a public road subject to the KCRS.
- i. Tract C shall be a minimum 20 feet wide and improved as joint use driveways per Section 3.01 of the KCRS. This tract shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and on the final plat map.
- j. A minimum 5 foot wide paved, public pedestrian walkway shall be provided between Road A and Road B, through Tract B.
- k. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.

10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. There shall be no direct vehicular access to or from 116th Avenue SE from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
14. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
15. Prior to final plat approval and recording, the applicant shall provide a valid Transfer of Development Rights (TDR) Certificate approved by the King County Department of Natural Resources to create the three additional lots within the proposed development. The certificate must show the applicant (or successor or assign) as the lawful owner of the development rights.
16. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan. This plan must not conflict with the Significant Tree Inventory & Mitigation Plan.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).

18. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 116th Avenue SE and/or 120th Avenue SE are on a bus route. If 116th Avenue SE and/or 120th Avenue SE are a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
19. To implement KCC 21.A.38.230, Special District Overlay – significant trees, which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention and engineering plans shall be consistent with the requirements of KCC. No clearing of the site is permitted until the tree retention plan is approved by DDES. Flagging and temporary fencing of trees to be retained shall be provided, consistent with KCC. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except as may be permitted under the provisions of KCC.

A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230B6. The tree retention plan shall be included as part of the final engineering plans for the subject plat.

ORDERED this 25th day of October, 2005.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 25th day of October, 2005, to the following parties and interested persons of record:

Gary Johnson
11811 SE 188th Street
Renton WA 98058

Robert J. & Arlene Kokesh
7695 SW Westmoor Way
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Eric LaBrie
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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before November 8, 2005***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the

Clerk of the King County Council *on or before November 15, 2005*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE OCTOBER 20, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0005.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Bruce Whittaker and Kristen Langley, representing the Department; Eric Labrie representing the Appellant, and Babu Parayil.

The following Exhibits were offered and entered into the record:

- | | |
|----------------|---|
| Exhibit No. 1 | Department of Development and Environmental Services file no. L05P0005 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated October 20, 2005 |
| Exhibit No. 3 | Application for Land Use Permits, received March 14, 2005 |
| Exhibit No. 4 | SEPA Checklist received March 14, 2005 |
| Exhibit No. 5 | SEPA Determination of Non-significance issued September 16, 2005 |
| Exhibit No. 6 | Affidavit of Posting indicating a posting date of May 12, 2005; received by DDES on May 16, 2005 |
| Exhibit No. 7 | Preliminary plat map received July 14, 2005 (revision) |
| Exhibit No. 8 | Assessor's maps: SW 33-23-05, NW 04-22-05 and SE 32-23-05 |
| Exhibit No. 9 | Kroll page 605W |
| Exhibit No. 10 | Level One Downstream Analysis by ESM Consulting Engineers, LLC, received March 14, 2005 |
| Exhibit No. 11 | KCSWDM adjustment approval letter for file L05V0052, dated September 22, 2005 |
| Exhibit No. 12 | Conceptual Neighborhood Circulation Plan by The Herbrand Company, received July 14, 2005 |
| Exhibit No. 13 | Traffic Impact Analysis by Mirai Transportation Planning & Engineering, received July 14, 2005 (revision) |
| Exhibit No. 14 | Wetland Determination by B-12 Wetland Consulting, Inc., received March 14, 2005 |
| Exhibit No. 15 | School Walking Conditions Analysis by ESM Consulting Engineers, LLC, received July 14, 2005 |
| Exhibit No. 16 | Traffic Narrative to be added to the Preliminary Report to the Hearing Examiner as condition H.5 |